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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,240	11/30/2001	Wen Liang Yan	0249-0001	2508
32256	7590	01/22/2007		
REED SMITH LLP 3110 FAIRVIEW PARK DRIVE FALLS CHURCH, VA 22042			EXAMINER SHEN, WU CHENG WINSTON	
			ART UNIT 1632	PAPER NUMBER
			MAIL DATE 01/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/997,240

Applicant(s)

YAN ET AL.

Examiner

Wu-Cheng Winston Shen

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 70-73, 75, 80, 82, 84, 90 and 92-95.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

PETER PARAS, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Continuation of 11. does NOT place the application in condition for allowance because:

It is noted that the examiner prosecuting this case has changed. All inquiries directed to the application should be directed to examiner W. - C. Winston Shen.

Applicants' proposed amendments and remarks in the reply filed on Dec. 19, 2006 are acknowledged.

Specifically, the proposed amendments recite the phrase "pluripotent stem cell homozygous on one or more given haplotypes", which replaces the phrase "pluripotent stem cell of a given haplotype having an identical pair of one or more alleles", which was rejected in the Final Rejection with regard to claims 70-73, 75, 80, 82, 84, 90, 92-95 under examination prosecuted by Primary Examiner Woitach, Joseph mailed out on Sep. 19, 2006.

After a text search in the specification of the proposed amended phrase "homozygous on one or more given haplotypes" in the claims, the new examiner of instant application cannot find any literal support of the phrase. Attempts to find non-literal support of the phrase based on the words "homozygous" and "haplotypes" recited in the specification does not provide support for the proposed amended phrase either.

The closest statements found in the specification relevant to the proposed amendments are the statements (i) "pluripotent stem cells of the present invention are homozygous (with minimal heterozygosity or uniform homozygosity)" (See paragraph [0016] of instant application), and (ii) A "homozygous stem cell", previously termed a "teratoma stem cell" or a "TS cell", is an undifferentiated stem cell arising from a non-fertilized post-meiosis I diploid germ cell (See paragraph [0077] of instant application). These statements do not support the proposed amendments "homozygous on one or more given haplotypes". More specifically, the fundamental issue regarding the novelty of the instant application hinges on the definition of homozygous, i.e. at which levels --- conventional genetic aspect (haplotypes, genetic distance defined by crosses), molecular aspect (genes, alleles, nucleotide sequences), chemical aspect (methylation of DNA and histones, genetic imprint/ memory) etc.

Therefore, the proposed amendments raise the issue of new matter and new issues requiring further consideration and/or search. Accordingly, the proposed amendments will not be entered. Applicants have not provided new arguments with respect to the rejections of record. Therefore, the rejections of the record are maintained.

Any inquiry concerning this communication from the examiner should be directed to Wu-Cheng Winston Shen whose telephone number is (571) 272-3157 and Fax number is 571-273-3157. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the supervisory patent examiner, Peter Paras, can be reached on (571) 272-4517. The fax number for TC 1600 is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wu-Cheng Winston Shen, Ph. D.
Patent Examiner
Art Unit 1632